



Application No.

09/878,789

Applicant(s)

AGEE ET AL.

Examiner

Blanche Wong

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-41, 44-179 and 182-187 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 113 and 114 is/are allowed.
- 6) ☒ Claim(s) 1-47, 101, 102, 105, 108, 110, 115-183 and 185-187 is/are rejected.
- 7) ☒ Claim(s) 48-100, 103, 104, 106, 107, 109, 111, 112 and 184 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date _____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

George S. Cole, Esq.
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Redwood City, CA 94063

Commissioner For Patents
Attn: Examiner Blanche Wong, Art Group 2616
P. O. Box 1450
Alexandria, VA 22313-1450

Jan. 12th, 2007

Re: Application 09/878,789 Agee et al.

Dear Examiner Wong:

Enclosed is the copy of your First Office Action of 10/09/06 for the above-numbered patent application, and the Response thereto, including specifically the Claims Listing. Many thanks for informing me that, due to the overlap between the interview and the issuance of that Office Action, an Examiner's Amendment was not feasible and that I needed to file this Response.

I hope that this Response, and these claims, will now be approved. If you want the MS Word files of either or both of the Specification and Claims Listing, or anything else to assist you in your task, please let me know and I will be glad to send such by email.

As you know, we had a very significant and fruitful telephonic interview (I spoke with both you and your supervisor, Mr. Huy Vu). At the end of that process, on Oct. 28th, 2006 I sent an informal copy of the claims text that we had mutually resolved and that you and he had indicated were ready for approval.

In preparing this response, I made changes to that text, detailed as follows.

The first set of changes were made to conform with PTO requirements stated in the Office Action:

- First, the missing words "spatially diverse" were added in the seventh line (Line 9) of Claim 1, to solve the problem of the missing antecedent, putting the text of Claim 1 in conformity with that in the other independent Claims 2, 41, 101, 108, 113, 185;
 - The acronym "SINR" was spelled out in Claim 3 (it first appears there, not in Claim 2);
 - The parentheses in Claim 32 were removed;
 - The misspelling of "heterogenous" was corrected in Claim 38;
 - The duplicated line "A wireless electronic communications network" was removed in Claim 101;
- and,
- A colon replaced the comma after the word "comprising in Claim 185.

I then found the additional typographical errors, which are specifically listed also on Page 11 of the Response:

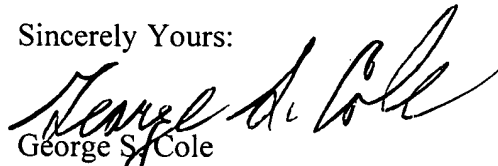
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- The lack of a missing space in “diversitycapability” was corrected in Claim 41;
 - The repetition of the word “wherein” was eliminated in Claim 59;
 - The lack of a missing space in “Amethod” was corrected in Claim 72;
 - The misspelling of “futher” for “further” was corrected in Claim 109;
- and,
- In each of Claims 150 and 151, the misspelling of “reliabilty” for “reliability” and the extra period at the end of a sentence were both corrected.

I fervently hope that these changes – and in fact, this Response – are seen as a sincere effort to meet our joint goal and to present only an application and claims that are, truly, in as close and accurate a condition, ready for issuance, as I can provide.

Sincerely Yours:



George S. Cole
PTO Reg. # 40,563

GSC/ms



EXPRESS MAIL CERTIFICATE

"Express Mail" mailing label No: _____ EQ 338677770 US _____

Date of Deposit: _____ Jan. 12th, 2007 _____

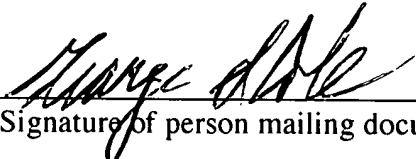
I hereby certify that the following documents:

-
- Cover letter to Examiner;
 - Copy of Office Action;
 - Response to Office Action with
Petition for Extension of Time;
Deposit Account Authorization; and,
Duplicate of Account Authorization.
 - Check for extension of time;
 - Claims Listing (changes marked);
 - and,
 - a copy of this Express Mail Certificate;
-

are being deposited in a single envelope with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and such envelope is addressed to:

Mail Stop Non-Fee Amendment
Attn: Examiner Blanche Wong, Art Unit 2616
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450.

George S. Cole, Esq.


(Signature of person mailing documents)

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